



## Chapter 1

### Purpose and Need for the Proposed Action

#### Introduction and Purpose of the Chapter

The Trust Land Management Division (the Division) of the Montana Department of Natural Resources and Conservation (DNRC or the Department) has developed a Draft Programmatic Environmental Impact Statement (DPEIS or DEIS) to analyze and disclose impacts, and compare alternative management strategies of the real estate on state trust lands. The preferred alternative from the DPEIS will become the Real Estate Management Plan (Plan). The Plan will provide the Division's Real Estate Management Bureau (REMB) with consistent policy, direction and guidance in its management of real estate activities on the state's 5.2 million acres of Trust Lands. The Division is divided into four bureaus: Forest Management, Mineral Management, Agriculture and Grazing Management, and Real Estate Management. The Agriculture and Grazing Bureau and Minerals Bureau are guided by administrative rules. The Forest Management Bureau is guided by the rules adopted from the State Forest Land Management Plan (SFLMP). This Plan will only address management activities of the REMB.

Chapter One of this Draft Programmatic Environmental Impact Statement (PEIS) describes the scope, purpose and need for the Real Estate Management Plan. It sets forth the objectives of the Plan as well as the associated issues that in turn form the basis for decision making and for the development of various alternative planning approaches presented in Chapter 2 of the Draft PEIS.

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## 1.1 PURPOSE OF THE PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT (PEIS)

The purpose of this PEIS is to identify and evaluate alternative strategies for performing the program responsibilities of the Real Estate Management Bureau (REMB) of the Trust Land Management Division (TLMD or Division) of the Montana Department of Natural Resources and Conservation (DNRC). The Bureau is charged with the management of commercial, conservation, industrial and residential uses on Trust Lands for the benefit of the public schools, Kindergarten through 12<sup>th</sup> grade and the Montana University system. A preferred alternative will be selected through the Environmental Impact Statement process of the Montana Environmental Policy Act (MEPA) and the selected alternative will become the Trust Lands Management Plan, the guiding framework for decisions related to the management and use of these lands. In keeping with this purpose, essential components of this PEIS are to:

- Identify the roles, duties, and purpose of the REMB.
- Identify a systematic process for proposing and evaluating land use proposals on school trust lands;
- Evaluate the social, economic, and environmental effects of alternative plan philosophies; and
- Select a preferred plan to guide the decisions of the REMB.

### 1.1.1 Who Has Initiated this Process?

The DNRC has initiated the PEIS process in order to select a “plan” to clarify the future management philosophy of the REMB and to provide a framework for future decision-making. The REMB is one of four Bureaus within the Division, which is guided by a mission and fiduciary responsibility to generate revenue on behalf of the beneficiaries of the Trust Lands including public schools, K-12<sup>th</sup> grade and the state’s universities. This is accomplished through the management of almost 5.2 million surface acres (plus subsurface rights) of Trust Lands granted to the State of Montana at statehood by the federal government. More particularly, the REMB is responsible for generating revenue from real estate activities on Trust Lands related to commercial, conservation, industrial, and residential land uses.

### 1.1.2 What is the Proposed Action?

The Division intends to develop a programmatic Real Estate Management Plan (Plan) that will enable the REMB to implement consistent policy, direction and guidance in its management of real estate activities on Trust Lands. It will provide the general philosophy and approach to real estate management, which will in turn serve as the framework for project-level decision making. Individual activities of the REMB will be subject to the provisions set forth in the Montana Environmental Policy Act (MEPA). As provided for under MEPA, this DPEIS also includes a list of types of actions that would qualify for categorical exclusion from the preparation of an Environmental Assessment or Environmental Impact Statement under the proposed Plan, unless extraordinary circumstances occur.

### 1.1.3 To What Areas will the Plan Apply ?

The Real Estate Management Plan will be used in the management of the entire surface holdings of the Division, approximately 5.2 million acres statewide. The lands are, and will continue to be managed by six land offices, geographically distributed across the state.

### 1.1.4 What will the Plan not Address?

It will not determine any specific real estate program or project. It will not address site-specific issue nor will it make specific land use allocations.

### 1.1.5 What Time Period will be Addressed by the Plan?

The selected Real Estate Management Plan will apply through the year 2025. However, the Plan will contain provisions for updates and revisions over time to reflect changing conditions.

## 1.2 NEED FOR THE ACTION

The REMB manages programs and processes for the issuance of leases, licenses, and easements, the exchange of Trust Lands for private and federal lands, and the sales and purchases of Trust Lands. The REMB is facing critical challenges in fulfilling these land management responsibilities. In particular, these challenges can be expressed in the following two problem statements:

- The face of Montana is changing. While certain areas of the state are enduring economic decline, other are experiencing rapid growth. For those State Trust Lands that are located in areas of high growth, opportunities exist to garner greater income on behalf of the Trust Land beneficiaries. To ignore these opportunities would be contrary to the TMLD's mandate and fiduciary responsibilities to produce revenue for the school trusts.
- As a newly created Bureau, the REMB is currently without clear policies and guidelines for decision-making. Residential, commercial, industrial and conservation activities on Trust Lands have occurred under a process that has evolved since the inception of the Bureau (1996) and the addition of planning staff to the Land Offices. In recent years, most development opportunities on Trust Lands has been focused in urban locations.

## 1.3 THE OPPORTUNITIES

### 1.3.1 The School Funding Opportunity

In recent years, the people of the State of Montana have become increasingly concerned about the level of funding for public education. This concern came to light in a recent Montana District Court decision (April, 2004), that found Montana is violating its own Constitution by failing to adequately fund public education and must have a new financing plan in place by October of 2005. Although the final disposition of the case is not clear, the contribution that Trust Lands can make to the

school funding base, will become increasingly important as the state struggles with finding sources of revenue to address school funding needs.

### 1.3.2 The Economic Opportunity

The Montana economy is becoming increasingly dependent on non-resource based industries. According the U.S. Bureau of Economic Analysis, the largest industries in Montana in 2001 were services, constituting 27.7 percent of earnings; state and local government, 14.9 percent; and retail trade, 11.3 percent. Of the industries that accounted for at least 5 percent of earnings in 2001, the slowest growing from 2000 to 2001 was federal civilian government (5.7 percent of earnings in 2001), which increased 0.6 percent; the fastest was state and local government, which increased 11.0 percent (Regional Economic Information System, Bureau of Economic Analysis, April 2003).

Grazing lands comprise almost 80 percent of the total surface acres managed by the TLMD. Agricultural (farming) land comprises about 11 percent of the total surface acres, forested acres comprise about 9 percent of the total land base, with other uses (cabin sites, residential housing, commercial and industrial leases, and conservation) comprising less than one percent of the land base. While the greatest amount of revenue generated from Montana's Trust Lands is from agriculture and grazing, the net return per acre on grazing lands is the lowest. Conversely, while less than one percent of the land base is in classified "other" uses, the return per acre is the highest. Table 1-1 summarizes the net revenue per acre for each of the various surface uses.

<b>Table 1-1. Trust Land Net Revenue per Surface Acre for 2003</b>			
Bureau	Acres Managed	2003 Revenue	Net Revenue Per Acre
Grazing	4,062,911	\$5,036,377	\$1.25
Agriculture	569,657	\$8,036,597	\$14.00
Forest	480,368	\$3,138,699	\$6.53
Other (Real Estate)	22,071	\$1,206,388	\$54.83
TOTAL	*5,161,513	\$17,418,061	\$3.37

\*Rounding errors affect Total

Trust lands that are in close proximity to areas of high growth are well positioned to take advantage of opportunities in the commercial service and residential sectors of the economy.

## 1.4 OBJECTIVES

The Division used the following objectives to develop this plan. These objectives were used throughout the programmatic Draft PEIS process to design alternatives, to eliminate unreasonable alternatives, and will be used to select a preferred alternative.

- Generate increased revenue for trust beneficiaries greater than current levels

- Comply with the Montana Environmental Policy Act (MEPA) requirements for developing a programmatic plan, DNRC's administrative procedures regarding MEPA (ARM 36.2 et. Seq.) and the Montana Antiquities Act (MCA 22-3-424), in their most current form
- Provide a more effective and efficient decision-making framework for real estate management that includes a strategic vision and philosophy for future management.
- Simplify the project level evaluation process
- Protect the long-term viability of Trust Land for uses other than agriculture, grazing and timber.
- Provide an opportunity for public involvement in decisions affecting residential, commercial, industrial and conservation uses
- Develop ways to work more closely with local government processes and policies.

## 1.5 THE PUBLIC INVOLVEMENT PROCESS

A PEIS (Programmatic Environmental Impact Statement) planning team, consisting of staff members of the TLMD prepared an Initial Proposal for the scoping process (see the List of Preparers). The Initial Proposal described the purpose and need for the PEIS and listed issues for possible consideration. This document also described our current processes and two initial alternatives – the no-action or status quo alternative and a proposed alternative.

### 1.5.1 Public Scoping and Involvement

During the development of the initial proposal, the Division compiled several mailing lists, including a general mailing list of persons, agencies and interest groups who commented on previous DNRC statewide issues, a mailing list of the fifty-six (56) Montana County Commissioners, Montana planning offices, Montana Association of Planners (MAP), county and district school superintendents and the Land Board and Land Board staff. These initial mailing lists totaled approximately one thousand (1,000) entries. The Division mailed a newsletter announcing the availability of the initial proposal to everyone on this mailing list in January, 2001, including a return addressed request form to mail if they wanted to receive a copy of the initial proposal. The TLMD also published display ads in Montana newspapers (the Montana group), and an electronic version was also posted on the DNRC website. Information from the public and internal scoping processes is included in Appendix A.

The Division opened the public comment period for the initial proposal on Monday, January 8, 2001. The public comment period lasted 109 days and closed on Friday, April 27, 2001. The TLMD also held the several public scoping meetings to present the Initial Proposal and ask for public comment. Press releases were issued the week prior to the meetings. The meetings consisted of a one-half hour PowerPoint® presentation, followed by a question and answer session. Comments were not recorded at these meetings; attendees were asked to submit their comments in writing so we would be sure to consider them in the preparation of the draft programmatic EIS. These public scoping meetings were held at the following locations and dates:

<b>Table 1-2. Public Scoping</b>	
<b>DATE</b>	<b>LOCATION</b>
5 March 2001	Billings
6 March 2001	Miles City
7 March 2001	Lewistown
8 March 2001	Bozeman
27 March 2001	Kalispell
28 March 2001	Missoula
29 March 2001	Helena
19 April 2001	Great Falls

The same PowerPoint© presentation was provided to the Land Board in Helena on April 16, 2001. As a result of the newsletter, 161 persons requested copies of the 65-page Initial Proposal by mail, phone, fax, or e-mail. Comments on the Initial Proposal were received from 83 persons. A total of 65 persons attended the public scoping meetings. All comments received were from within the state of Montana, except for one from Racine, Wisconsin. Responses came from the following counties: Cascade (10), Flathead (16), Gallatin (4), Jefferson (1), Lake (5), Lewis and Clark (7), Madison (3), Meagher (1), Missoula (16), Phillips (1), Ravalli (6), Sanders (2), Silver Bow (4), Stillwater (1), Teton (1), Yellowstone (5). The EIS planning team then carefully reviewed all comments and grouped them into relevant major issue categories. We used these issue categories to develop the alternatives described in the following sections of this draft PEIS.

A follow-up newsletter was sent to a mailing list of 600 individuals/agencies in February 2004 to inform the interested public of progress being made towards preparation of the Draft Environmental Impact Statement. The newsletter included a timeline for completing the EIS process and general assumptions for identifying alternative plan scenarios.

### 1.5.2 Internal Scoping

The REMB is integrated with three other bureaus within the TLMD. This plan could affect the existing operation of the Real Estate Bureau and its relationship to the other bureaus. This would be particularly evident related to the common objective to generate revenue to the school trusts and how assets (financial and personnel) would be affected by changing priorities and portfolio objectives. The TLMD staff was offered an opportunity to identify issues related to the development of the PEIS in a session conducted for that purpose in October 2003. An additional opportunity for comment by TLMD personnel was offered in the spring of 2004 prior to the release of the DEIS.

(The Draft PEIS and Final PEIS Processes will be added later.)

### 1.5.3 Issues Identified

Based on comments received and on prior experience with the administration of the Real Estate Management Bureau, the DNRC staff identified the following issues for evaluation in this PEIS:

- In order to meet its fiduciary responsibilities to the beneficiaries, the DNRC must increase revenue associated with the management of commercial, industrial, residential and conservation uses on Trust Lands.
- The REMB is managing land uses in a reactive manner without the benefit of well-defined planning process or decision making framework.
- The REMB currently lacks a methodology for determining the suitability of land for the development of the various uses under its jurisdiction.
- A successful real estate program will rely on a close association with local land use planning and regulatory processes.
- The relationship of the statutory requirements under MEPA to the selection and development of projects on Trust Lands is unclear.
- There is a need to identify opportunities for Categorical Exclusions (CE's), as provided under MEPA, consistent with the purpose for development of a programmatic plan (ARM 36.2.522(5))
- The REMB requires guidance in addressing the growth inducing impacts of development of commercial, residential and industrial uses on Trust Land
- The REMB requires guidance in addressing the impacts of growth with respect to transportation, air quality, noise, and other environmental concerns.
- The REMB requires guidance in addressing open space and wildlife habitat needs while providing income for trust beneficiaries.

### 1.5.4 Issues Eliminated from Detailed Study

The Division staff eliminated some issues from detailed study because they are outside the scope of the plan. Other issues were eliminated because other statutes, administrative rules, plans, or policies address them, or they are legally constrained. The explanation for the elimination of these issues from detailed study are listed below:

- The plan would not address all management activities occurring on Trust Land, such as agricultural or grazing leases, mineral leases, timber management activities, or other uses, including issuance of utility or driveway easements, general recreation licenses, and miscellaneous permits. These activities are addressed by other statutes, administrative rules, plans, and policies, and are outside the scope of the plan.
- Alternatives considered must be within the authority of the DNRC to implement. The plan would not evaluate alternatives that require changes in the

Enabling Act or Montana Constitution. Such changes are beyond the authority of DNRC to implement and therefore beyond the scope of the plan.

- The plan would not address site-specific uses or activity locations. Rather, it would contain the general management philosophy that guides project-level decisions.
- The plan would not consider several types of actions as specified in ARM 36.2.523(5), such as administrative actions, routine or clerical activities, minor repairs, operations or maintenance of existing equipment or facilities, investigation, enforcement and data collection, ministerial actions, etc.
- The plan would not address the general recreational use program, as described in MCA 77-1-801 et. seq. and ARM 36.25.143 – 167.
- The process to reclassify Trust Land, as described in MCA 77-1-401 – 404, would not be addressed by the plan.

Issues identified by the public that were related to the above were also eliminated from detailed study and not analyzed further.

## 1.6 THE DECISION THAT MUST BE MADE

The decision to be made is to select the alternative to become the Real Estate management Plan that that best satisfies the needs and objectives described in Sections 1.2 and 1.3. The Director of DNRC is the decision-maker for this programmatic plan. The Director will evaluate the alternatives to determine which alternative generated from the programmatic EIS process best meets the Division's mission statement and objectives of the plan. This decision must include (ARM 36.2.538(1)): what the preferred alternative is, why the Director has chosen this alternative, and any changes to the alternative as it was drafted. The Director will make his recommendation to the Board of Land Commissioners for their final approval.